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**1992 Wis Eth Bd 21**  
LOBBYING – DEFINITIONS;  
LOBBYING – PROHIBITED PRACTICES

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Wisconsin's lobbying law poses no restriction on a lobbyist representing clients in negotiating a purchase of land to a state agency on a contingency fee basis unless the matter is associated with adoption, modification, or repeal of a rule or the Legislature's consideration of an appropriation earmarked for the purchase of the land at issue, or an agency's development of such a legislative proposal. OEB 92-21

May 12, 1992

Facts

- [1] This opinion is based upon these understandings:
- a. You are an attorney in private practice and a lobbyist under Wisconsin's lobbying law.
  - b. You may be retained by private parties to represent them in negotiating the sale of property to a state agency.
  - c. The prospective clients would like to retain you on a contingency fee basis based on your success in convincing the state agency to purchase the property.

Question

- [2] The Ethics Board understands your question to be:

Does Wisconsin's lobbying law pose any restrictions on your handling the described matter on a contingency fee basis?

Discussion

- [3] Wisconsin's lobbying law provides that no lobbyist may:

[c]ontract to receive or receive compensation dependent in any manner upon the success or failure of any legislative or administrative action.

§13.625(1)(d), *Wisconsin Statutes*. Legislative action and administrative action are both defined in §13.62, *Wisconsin Statutes*. §13.62(1), *Wisconsin Statutes*, defines administrative action as follows:

"Administrative action" means the proposal, drafting, development, consideration, promulgation, amendment, repeal or rejection by any agency of any rule promulgated under ch. 227.

§13.62(8), *Wisconsin Statutes*, defines legislative action as follows:

"Legislative action" means the development, drafting, introduction, consideration, modification, adoption, rejection, review, enactment or defeat of any bill, resolution, amendment, report, nomination, administrative rule or other matter by the legislature or by either house or any committee, subcommittee, joint or select committee thereof, or by a legislator or employe of the legislature acting in an official capacity. "Legislative action" also means the action of the governor in approving or vetoing any bill or portion thereof, and the action of the governor or any agency in the development of a proposal for introduction in the legislature.

[4] Normally, a sale of land to a state agency, or a purchase of land by that agency, is neither administrative nor legislative action as defined and is not considered lobbying. Thus, except in the event that the matter is associated with adoption, modification, or repeal of a rule or the Legislature's consideration of an appropriation earmarked for the purchase of the land at issue, or an agency's development of such a legislative proposal, the statutes administered by the Ethics Board pose no restriction on your representing clients in negotiating a purchase of land with the state agency on a contingency fee basis.

#### Advice

[5] Except in the event that the matter is associated with adoption, modification, or repeal of a rule or the Legislature's consideration of an appropriation earmarked for the purchase of the land at issue, or an agency's development of such a legislative proposal, Wisconsin's lobbying law poses no restriction on your representing clients in negotiating a purchase of land to a state agency on a contingency fee basis.